

Panaji, 25th July, 1974 (Sravana 3, 1896)

SERIES I No. 17



OFFICIAL GAZETTE

GOVERNMENT OF GOA, DAMAN AND DIU

GOVERNMENT OF GOA, DAMAN AND DIU

Law and Judiciary Department

Notification

LD/3448/74

The following Ordinance which was recently promulgated by the President is hereby published for general information of the public.

M. S. Borkar, Under Secretary (Law).

Panaji, 12th July, 1974.

THE ESSENTIAL COMMODITIES (AMENDMENT) ORDINANCE, 1974

No. 2 of 1974

Promulgated by the President in the Twenty-fifth Year of the Republic of India.

An Ordinance further to amend the Essential Commodities Act, 1955.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (I) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. Short title and commencement.—(1) This Ordinance may be called the Essential Commodities (Amendment) Oordinance, 1974.

(2) It shall come into force at once.

2. Act 10 of 1955 and Act 46 of 1952 to be temporarily amended.—During the period of operation of this Ordinance, the Essential Commodities Act, 1955 (hereinafter referred to as the principal Act) shall have effect subject to the amendments specified in sections 3 to 12 (both inclusive) and the Criminal Law Amendment Act, 1952 shall have effect subject to the amendments specified in section 13.

3. Amendment of section 2.—In section 2 of the principal Act, in clause (a), after sub-clause (iv),

the following sub-clause and *Explanation* shall be inserted, namely:—

'(iva) drugs.

Explanation.—In this sub-clause, "drug" has the meaning assigned to it in clause (b) of section 3 of the Drugs and Cosmetics Act, 1940;.

23 of 1940

4. Amendment of section 3.—In section 3 of the principal Act, in clause (ii) of sub-section (3B), for the words "where no such price is fixed,", the words "where no such price is fixed, an amount calculated having regard to" shall be substituted.

5. Amendment of section 6A.—In section 6A of the principal Act, in the opening paragraph, for the words "may order confiscation of the essential commodity so seized:", the following shall be substituted, namely:—

"may order confiscation of —

(a) the essential commodity so seized;

(b) any package, covering or receptacle in which such essential commodity is found; and

(c) any animal, vehicle, vessel or other conveyance used in carrying such essential commodity:."

6. Amendment of section 6B.—Section 6B of the principal Act shall be re-numbered as sub-section (1) thereof and —

(a) in sub-section (1) as so re-numbered, for the words "essential commodity", wherever they occur, the words "essential commodity, package, covering, receptacle, animal, vehicle, vessel or other conveyance" shall be substituted;

(b) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) Without prejudice to the provisions of sub-section (1), no order confiscating any animal, vehicle, vessel or other conveyance shall be made under section 6A if the owner of the animal, vehicle, vessel or other conveyance proves to the satisfaction of the Collector that it was used in carrying the essential commodity without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the animal, vehicle, vessel or other conveyance and that each of them had taken all reasonable and necessary precautions against such use."

7. Amendment of section 7. — In section 7 of the principal Act, for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:

"(1) If any person contravenes any order made under section 3,—

(a) he shall be punishable,—

(i) in the case of an order made with reference to clause (h) or clause (i) of sub-section (2) of that section, with imprisonment for a term which may extend to one year and shall also be liable to fine, and

(ii) in the case of any other order, with imprisonment for a term which shall not be less than three months but which may extend to seven years and shall also be liable to fine:

Provided that the court may, for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than three months;

(b) any property in respect of which the order has been contravened shall be forfeited to the Government;

(c) any package, covering or receptacle in which the property is found and any animal, vehicle, vessel or other conveyance used in carrying the property shall, if the court so orders, be forfeited to the Government.

(2) If any person to whom a direction is given under clause (b) of sub-section (4) of section 3 fails to comply with the direction, he shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to seven years and shall also be liable to fine:

Provided that the court may, for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than three months.

(2A) If any person convicted of an offence under sub-clause (ii) of clause (a) of sub-section (1) or under sub-section (2) is again convicted of an offence under the same provision, he shall be punishable with imprisonment for the second and for every subsequent offence for a term which shall not be less than six months but which may extend to seven years and shall also be liable to fine:

Provided that the court may, for any adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months.

(2B) For the purposes of sub-sections (1), (2) and (2A), the fact that an offence under sub-clause (ii) of clause (a) of sub-section (1) or under sub-section (2) has caused no substantial harm to the general public or to any individual shall be an adequate and special reason for awarding a sentence of imprisonment for a term of less than three months or six months, as the case may be."

8. Amendment of section 10A. — In section 10A of the principal Act,

(a) for the words and figures "the Code of Criminal Procedure, 1898", the words and figures "the Code of Crimi-

nal Procedure, 1973" shall be substituted;

(b) the words "and bailable" shall be omitted.

9. Insertion of new sections 10B and 10C. — After section 10A of the principal Act, the following sections shall be inserted, namely:

10B. Power of court to publish name, place of business, etc., of companies convicted under the Act. — (1) Where any company is convicted under this Act, it shall be competent for the court convicting the company to cause the name and place of business of the company, nature of the contravention, the fact that the company has been so convicted and such other particulars as the court may consider to be appropriate in the circumstances of the case, to be published at the expense of the company in such newspapers or in such other manner as the court may direct.

(2) No publication under sub-section (1) shall be made until the period for preferring an appeal against the orders of the court has expired without any appeal having been preferred, or such an appeal, having been preferred, has been disposed of.

(3) The expenses of any publication under sub-section (1) shall be recoverable from the company as if it were a fine imposed by the court.

Explanation. — For the purposes of this section, "company" has the meaning assigned to it in clause (a) of the *Explanation* to section 10.

10C. Presumption of culpable mental state. — (1) In any prosecution for any offence under this Act which requires a culpable mental state on the part of the accused, the court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

Explanation. — In this section, "culpable mental state" includes intention, motive, knowledge of a fact and the belief in, or reason to believe, a fact.

(2) For the purposes of this section, a fact is said to be proved only when the court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.'

10. Substitution of new section for section 12. — For section 12 of the principal Act, the following section shall be substituted, namely:

"12. Special provision regarding fine.

— Notwithstanding anything contained in section 29 of the Code of Criminal Procedure, 1973, it shall be lawful for any Metropolitan Magistrate, or any Judicial Magistrate of the first class specially empowered by the State Government in this behalf, to pass a sentence of fine exceeding five thousand rupees on any person convicted of contravening any order made under section 3."

11. *Amendment of section 12A.*—In section 12A of the principal Act,—

(a) in sub-section (1), for the words “any essential commodity”, the words, brackets, letter and figure “any essential commodity [not being an essential commodity referred to in clause (a) of sub-section (2)]” shall be substituted;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences relating to—

2 of 1974

(a) the contravention of an order made under section 3 with respect to—

- (i) cotton or woollen textiles; or
- (ii) foodstuffs, including edible oilseeds and oils; or
- (iii) drugs; and

(b) where any notification issued under sub-section (1) in relation to a special order is in force, the contravention of such special order,

shall be tried in a summary way and by a Judicial Magistrate of the first class specially empowered in this behalf by the State Government or by a Metropolitan Magistrate and the provisions of sections 262 to 265 (both inclusive) of the said Code shall, as far as may be, apply to such trial:

Provided that, in the case of any conviction in a summary trial under this section, it shall be lawful for the Magistrate to pass a sentence of imprisonment for a term not exceeding one year:

Provided further that when at the commencement of, or in the course of, a summary trial under this section, it appears to the Magistrate that the nature of the case is such that a sentence of imprisonment for a term exceeding one year may have to be passed or that it is, for any other reason, undesirable to try the case summarily, the Magistrate shall, after hearing the parties, record an order to that effect and thereafter recall any witnesses who may have been examined and proceed to hear or re-hear the case in the manner provided by the said Code.”;

(c) in sub-section (3),—

(i) for the words and figures “the Code of Criminal Procedure, 1898”,
5 of 1898
the words and figures “the Code of
Criminal Procedure, 1973” shall be
substituted;
2 of 1974

(ii) for the words “or of fine not exceeding two thousand rupees, or both”, the words “and of fine not exceeding two thousand rupees” shall be substituted;

(iii) for the word and figures “section 517”, the word and figures “section 452” shall be substituted;

(iv) the words “of imprisonment or fine” shall be omitted;

(d) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) All cases relating to the contravention of an order referred to in clause (a) of sub-section

(2), not being a special order, and pending before a Magistrate immediately before the commencement of the Essential Commodities (Amendment) Ordinance, 1974, and, where any notification is issued under sub-section (1) in relation to a special order, all cases relating to the contravention of such special order and pending before a Magistrate immediately before the date of the issue of such notification, shall, if no witnesses have been examined before such commencement or the said date, as the case may be, be tried in a summary way under this section, and if any such case is pending before a Magistrate who is not competent to try the same in a summary way under this section, it shall be forwarded to a Magistrate so competent.”.

12. *Insertion of new section 12B.*—After section 12A of the principal Act, the following section shall be inserted, namely:—

“12B. *Grant of injunction, etc., by civil courts.*—No civil court shall grant an injunction or make any order for any other relief against the Central Government or a public officer in respect of any act done or purporting to be done by such Government, or such officer in his official capacity, under this Act or any order made thereunder, until after notice of the application for such injunction or other relief has been given to such Government or officer.”.

13. *Amendment of Act 46 of 1952.*—In section 8A of the Criminal Law Amendment Act, 1952,—

(a) in sub-section (1),—

(i) for the words, figures and letter “referred to in section 12A of the Essential Commodities Act, 1955”, the words, brackets, figures and letters “referred to in sub-section (1) of section 12A of the Essential Commodities Act, 1955 or of an order referred to in clause (a) of sub-section (2) of that section” shall be substituted;

(ii) after the proviso, the following proviso shall be inserted, namely:—

“Provided further that when at the commencement of, or in the course of, a summary trial under this section, it appears to the special Judge that the nature of the case is such that a sentence of imprisonment for a term exceeding one year may have to be passed or that it is, for any other reason, undesirable to try the case summarily, the special Judge shall, after hearing the parties, record an order to that effect and thereafter recall any witnesses who may have been examined and proceed to hear or re-hear the case in accordance with the procedure prescribed by the said Code for the trial of warrant cases by Magistrates.”;

(b) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) All cases relating to the contravention of an order referred to in clause (a) of sub-section (2) of section 12A of the Essential Commodities Act, 1955 [not being a special order referred to in sub-section (1) of that section] triable summarily under this section and pending

10 of 1955

before a Magistrate immediately before the commencement of the Essential Commodities (Amendment) Ordinance, 1974, and, where any notification is issued under sub-section (1) of the said section 12A in relation to a special order, all cases triable summarily under this section in relation to such special order and pending before a Magistrate immediately before the date of the issue of such notification, shall, if no witnesses have been examined before such commencement or the said date, as the case may be, be tried by the special Judge in a summary way under this section.”.

14. Saving. — (1) The amendments made by section 11 of this Ordinance to section 12A of the principal Act shall not apply to and in relation to any contravention of a special order referred to in the said section 12A which was committed before the commencement of this Ordinance and accordingly the provisions of that section as they stood immediately before such commencement shall continue to apply to and in relation to such contravention as if this Ordinance had not been promulgated.

(2) The amendments made by section 13 of this Ordinance to section 8A of the Criminal Law Amendment Act, 1952 shall not apply to and in relation to any contravention of a special order referred to in section 12A of the principal Act which was committed before the commencement of this Ordinance and accordingly the provisions of the said section 8A as they stood immediately before such commencement shall continue to apply to and in relation to such contravention as if this Ordinance had not been promulgated.

46 of 1952

V. V. GIRI,
President.

S. K. MAITRA,
Joint Secy. to the Govt. of India.

Notification

LD/3544/74

The following Ordinances which were recently promulgated by the President are hereby published for general information of the public.

M. S. Borkar, Under Secretary (Law).

Panaji, 12th July, 1974.

**THE PRESS COUNCIL (AMENDMENT)
ORDINANCE, 1974**

No. 3 of 1974

Promulgated by the President in the Twenty-fifth
Year of the Republic of India

An Ordinance further to amend the Press Council
Act, 1965.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, Therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. Short title and commencement. — (1) This Ordinance may be called the Press Council (Amendment) Ordinance, 1974.

(2) It shall come into force at once.

2. Act 34 of 1965 to be temporarily amended. — During the period of operation of this Ordinance, the Press Council Act, 1965 (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in section 3.

3. Amendment of section 5. — In section 5 of the principal Act, in sub-section (1A), —

(a) in the opening portion, for the words, figures and letters “the Chairman and other members holding office as such on the 30th day of September, 1973, shall continue to hold such office until the 30th day of June, 1974.”, the words, figures and letters “the Chairman and other members holding office as such on the 29th day of June, 1974, shall continue to hold such office until the 31st day of December, 1974.” shall be substituted;

(b) in the proviso, in clause (a), for the figures, letters and words “30th day of June, 1974”, the figures, letters and words “31st day of December, 1974” shall be substituted.

V. V. GIRI,
President.

28-6-74

S. K. MAITRA,
Joint Secy. to the Govt. of India.

**THE INDIAN IRON AND STEEL COMPANY
(TAKING OVER OF MANAGEMENT)
AMENDMENT ORDINANCE, 1974**

No. 4 of 1974

Promulgated by the President in the Twenty-fifth
Year of the Republic of India

An Ordinance to amend the Indian Iron and Steel Company (Taking Over of Management) Act, 1972.

Whereas the management of the undertaking of the Indian Iron and Steel Company Limited had vested in the Central Government for a limited period of two years with effect from the 14th day of July, 1972;

And Whereas the said limited period of two years will expire on the 13th day of July, 1974;

And Whereas the Central Government is of opinion that it is expedient in the public interest that the management of the undertaking of the Indian Iron and Steel Company Limited should continue to vest in the Central Government for a further limited period beyond the 13th day of July, 1974;

And Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now Therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. Short title and commencement.—(1) This Ordinance may be called the Indian Iron and Steel Company (Taking Over of Management) Amendment Ordinance, 1974.

(2) It shall come into force at once.

2. Act 50 of 1972 to be temporarily amended.—During the period of operation of this Ordinance, the Indian Iron and Steel Company (Taking Over of Management) Act, 1973 (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in section 3 to 11.

3. Amendment of section 2.—In section 2 of the principal Act, after clause (a), the following clause shall be inserted, namely:—

(aa) “Board of management” means the Board of management constituted under section 4A;’.

4. Amendment of section 3.—In section 3 of the principal Act,—

(i) in sub-section (1), for the words “two years”, the words “five years” shall be substituted.

(ii) to sub-section (1), the following proviso shall be added, namely:—

“Provided that if the Central Government is of opinion that it is expedient in the public interest that the management of the undertaking of the company should continue to vest in the Central Government after the expiry of the period of five years aforesaid, it may, from time to time, issue directions for such continuance for such further period, not exceeding two years at a time, as may be specified in the directions; so, however, that the total period of such continuance, including the period of five years aforesaid, shall not exceed ten years; and where any such direction is issued, a copy thereof shall be laid, as soon as may be, before both Houses of Parliament.”.

5. Insertion of new sections 4A, 4B, 4C, 4D and 4E.—After section 4 of the principal Act, the following sections shall be inserted, namely:—

“4A. Board of management.—(1) There shall be Board of management consisting of one Chairman and not less than four and not more than fourteen other members.

(2) The Chairman and other members of the Board of management shall be appointed by the Central Government and shall hold office during the pleasure of the Central Government.

(3) Such of the members of the Board of management as may be specified by the Central Government as whole-time members may be placed in charge of such functions of management of the undertaking of the company as may be specified by that Government.

(4) The Chairman and other members of the Board of management shall receive from the funds of the undertaking of the company such allowances as may be prescribed for attending any meeting of the Board of management.

4B. Board of management to manage the undertaking of the company.—(1) On the commencement of the Indian Iron and Steel Company (Taking Over of Management) Amendment Ordinance, 1974, the Central Government may, by notification in the Official Gazette, direct that on and from such date as may be specified in the notification, the general superintendence, direction and management of the affairs and business of the undertaking of the company shall be carried on, for and on behalf of the Central Government, by the Board of management.

(2) Subject to the other provisions of this Ordinance and to the direction, control and supervision of the Central Government, the Board of management shall be entitled, notwithstanding anything contained in the Companies Act, 1956, to exercise, in relation to the undertaking of the Company, all the powers of the Board of Directors of a company (including powers to dispose of any properties or assets of company), whether such powers are derived from the Companies Act, 1956, or from the memorandum or articles of association of the company or from any other source.

1 of 1956.

4C. Appointment of an Administrator.—(1) There shall be an Administrator, to be appointed by the Central Government, to assist the Board of management to manage the affairs of the undertaking of the company.

(2) The Chairman or any other member of the Board of management may be appointed by the Central Government as the Administrator.

(3) All officers and other persons employed in connection with the affairs of the undertaking of the company shall be subordinate to the Administrator.

(4) The Administrator shall exercise, subject to the direction, control and supervision of the Board of management, such powers and discharge such functions of management in relation to the undertaking of the company as the Central Government may specify in this behalf.

(5) The Administrator shall receive from the funds of the undertaking of the company such remuneration as the Central Government may fix.

4D. Custodian to vacate office.—(1) The Custodian shall, on and from the date on which the management of the undertaking of the company is taken up by the Board of management, vacate his office as such; but nothing in this sub-section shall be construed as prohibiting his appointment as a member of the Board of management or as the Administrator.

(2) On the vacation of his office, the Custodian shall, where he is not appointed as the Administrator, forthwith deliver to the Administrator possession of all assets and properties of the com-

pany which are in his possession, custody and control on the date immediately preceding the date on which he vacates his office as the Custodian.

4E. Meetings, etc., of the Board of management. — (1) The Board of management shall meet for the transaction of its business at such time and place as it may think fit:

Provided that the Chairman may, whenever he thinks fit, and shall, upon the written requisition of not less than two members, call a special meeting.

(2) The quorum for a meeting of the Board of management shall be one-third of its total strength (any fraction contained in that one-third be rounded off as one) or three members, whichever is higher.

(3) The Chairman, or, in his absence, any member chosen by the members present from amongst themselves, shall preside at a meeting of the Board of management.

(4) All questions which come up before any meeting of the Board of management shall be decided by a majority of votes of the members present and voting, and in the case of an equality of votes, the Chairman, or, in his absence, the person presiding, shall have a second or casting vote.

(5) All orders and decisions of the Board of management shall be authenticated by the signature of the Chairman or any other member authorised by the Board of management in this behalf and all other instruments issued by the undertaking of the company shall be authenticated with the signature of the Administrator or any other officer of the undertaking of the company authorised by the Board of management in this behalf.

(6) The Board of management shall regulate its own procedure.”.

6. Omission of section 5. — Section 5 of the principal Act shall be omitted.

7. Amendment of section 7. — In section 7 of the principal Act, in sub-section (1), for the words “period of two years referred to in that sub-section”, the words “period of five years referred to in that sub-section or the further period specified in any directions made under the proviso thereto” shall be substituted.

8. Amendment of section 9. — In section 9 of the principal Act, for the word “Custodian”, wherever it occurs, the words “Administrator, Board of management or Custodian” shall be substituted.

9. Amendment of section 12. — In section 12 of the principal Act, after the words “any notification”, the word “direction,” shall be inserted.

10. Amendment of section 13. — In section 13 of the principal Act, for the word “Custodian”, wherever it occurs, the words “Administrator, Board of management or Custodian” shall be substituted.

11. Amendment of section 16. — In section 16 of the principal Act, in sub-section (2), for clause (a), the following clause shall be substituted, namely:

“(a) allowances which may be received by the Chairman and other members of the Board of management for attending any meeting of the Board of management;”.

V. V. GIRI,

President.

28-6-74

S. K. MAITRA,
Joint Secy. to the Govt. of India.

THE ALCOCK ASHDOWN COMPANY LIMITED
(ACQUISITION OF UNDERTAKINGS)
AMENDMENT ORDINANCE, 1974

No. 5 of 1974

Promulgated by the President in the Twenty-fifth
Year of the Republic of India

An Ordinance to amend the Alcock Ashdown Company Limited (Acquisition of Undertakings) Act, 1973

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. Short title and commencement. — (1) This Ordinance may be called the Alcock Ashdown Company Limited (Acquisition of Undertakings) Amendment Ordinance, 1974.

(2) It shall be deemed to have come into force on the 14th day of December, 1973.

2. Amendment of section 4. — In section 4 of the Alcock Ashdown Company Limited (Acquisition of Undertakings) Act, 1973 to sub-section (1), the following *Explanation* shall be added, namely:

56 of 1973.

Explanation. — For the avoidance of doubts, it is hereby declared that the expression “undertakings of the company” does not include—

(a) any debts due to the company; and

(b) any amounts recoverable by the company from its shareholders or directors.’

V. V. GIRI,

President.

28-6-74

S. K. MAITRA,
Joint Secy. to the Govt. of India.